THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 30215 OF 1997

Date: 03.04.2007

Between:

Syed Manzoor Hussain.

... Petitioner

and

Labour Court, Godavarikhani, rep., by its Presiding Officer, Karimnagar District land another.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 30215 OF 1997

ORDER:

Aggrieved by the award of the Labour Court, Godavarikhani, in I.D. No. 121 of 1990 dated 09.07.1991, the petitioner-workman has approached this Court. On the ground that the petitioner-conductor had assaulted the checking officials on 11.09.1975 a criminal case, in C.C. No. 105 of 1975, was filed before the Judicial Magistrate of I Class, Chennur. Eventually the petitioner came to be acquitted in Criminal Revision Petition No. 291 of 1977 on 11.11.1977. Even prior thereto the services of the petitioner were terminated by order dated 20.12.1975 without initiating disciplinary proceedings.

The petitioner herein questioned the order dated 20.12.1975 as amounting to retrenchment, within the meaning of Section 2(oo) of the Industrial Disputes Act, since the order was passed without conducting any enquiry, that it was bad in law and that the petitioner was entitled to be reinstated into service. The Labour Court, however, held that, since the petition was filed after a lapse of 12 years and two years after the introduction of Section 2-A(2) in the Act, it must necessarily be held that the petitioner was not entitled for back wages nor was he entitled to any attendant benefits and that he was entitled only to five years service prior to the date of his reinstatement for reckoning or computing his interse seniority and not otherwise. The Labour Court accordingly set aside the order of removal dated 20.12.1975 and directed the

respondent management to reinstate the petitioner into service only with nominal continuity of service and without any attendant benefits and back wages. The Labour Court held that the period of five years prior to the date of reinstatement of the petitioner shall be taken into consideration for reckoning or computing his interse seniority and that he would not be entitled to any monetary benefits on that score and that he would be entitled to salary only from the date of receipt of his willingness to join duty, sent in writing by registered post with acknowledgment due, to the respondent management.

The only contention urged by Sri V. Viswanatham, learned Counsel for the petitioner, is that, since the labour Court had held that the termination of services of the petitioner, without conducting an enquiry, was contrary to the provisions of the Industrial Disputes Act, the petitioner-workman ought to have been reinstated into service with continuity of service and back wages. Learned Counsel would submit that, in any event, there was no justification whatsoever for the labour Court to deny continuity of service to the petitioner herein. In this context it is necessary to note that the petitioner herein approached the labour Court challenging the order dated 20.12.1975, removing him from services, nearly 15 years thereafter in the year 1990. While examining the nature and extent of relief to be granted, for termination of the services of an employee without conducting an enquiry, the labour Court is entitled to mould the relief and pass appropriate orders taking into consideration the delay and latches on the part of the workman in approaching the Labour Court. In

the present case the petitioner has approached the Labour Court in the year 1990 nearly 15 years after the order of removal came to be passed on 20.12.1975. For the inordinate delay, of nearly 15 years, on the part of the petitioner in approaching the Labour Court, he has been denied back wages and continuity of service. However, the period of five years prior to the date of his reinstatement was directed to be taken into consideration for reckoning his inter-se seniority. The order passed by the labour Court is not in excess of its jurisdiction and, in the absence of any error apparent on the face of the record, does not necessitate interference by this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India.

The writ petition fails and is accordingly dismissed. No costs.

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Date: 03.04.2007 RAMESH RANGANATHAN, J

MRKR